

48A C.J.S. Judges § 92

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IV. Standards of Conduct; Restrictions and Prohibitions

B. Nature of Conduct Proscribed or Prohibited

1. In General

§ 92. Lessening public confidence and respect for judiciary

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(2), 21

Judges must so comport themselves as to promote public confidence and respect for the judiciary.

Judges must so comport themselves as to promote public confidence and respect for the judiciary,¹ must be fair and impartial,² and must conduct themselves in court in a manner which promotes public confidence in the integrity and impartiality of the judiciary.³

A judge should refrain from participation in activities which may tend to lessen public respect for his or her judicial office⁴ and avoid conduct which may give rise to a reasonable belief that he or she has so participated.⁵ In fact, even in his or her private life a judge must adhere to standards of probity and propriety higher than those deemed acceptable for others.⁶

CUMULATIVE SUPPLEMENT

Cases:

State's judicial conduct rule, prohibiting judicial candidates from personally soliciting campaign funds, was narrowly tailored to State's asserted compelling interests for regulating speech, i.e., protecting the integrity of the judiciary and maintaining the public's confidence in an impartial judiciary; a narrow slice of speech was restricted, the rule left judicial candidates free to discuss any issue with any person at any time, and while judicial candidates could not say, "Please give me money," they could direct their campaign committees to do so. [U.S.C.A. Const.Amend. 1](#); West's F.S.A. Code of Jud.Conduct, Canon 7C(1). [Williams-Yulee v. Florida Bar](#), 135 S. Ct. 1656 (2015).

Conduct of District Court judge, who lived outside of his judicial district for approximately six months, violated state constitution and rules of Code of Judicial Conduct requiring judge to comply with law, to act in manner that promoted public confidence in judiciary, and to not allow personal activities to take precedence over duties of judicial office; after judge sold home in his district, he had no place to stay and owned no property in district, judge lived outside of district at current wife's home and had moved furniture into storage facility outside of his district and not far from wife's home, judge chose to remain at wife's home despite having housing options available to him within his district, and judge took steps to keep fact he was staying at wife's house a secret. [M.S.A. Const. Art. 6, § 4](#); 52 M.S.A., Code of Jud.Conduct, Canons 1.1, 1.2, 2.1. [In re Conduct of Pendleton](#), 870 N.W.2d 367 (Minn. 2015).

[END OF SUPPLEMENT]

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Footnotes

- 1
[Fla.—In re Allen](#), 998 So. 2d 557 (Fla. 2008).
[Ga.—White v. SunTrust Bank](#), 245 Ga. App. 828, 538 S.E.2d 889 (2000).
[S.C.—In re Brown](#), 343 S.C. 296, 540 S.E.2d 452 (2000).
- 2
[Fla.—In re Bell](#), 23 So. 3d 81 (Fla. 2009).
[Ind.—In re Young](#), 943 N.E.2d 1276 (Ind. 2011).
[Mass.—In re Adoption of Norbert](#), 83 Mass. App. Ct. 542, 986 N.E.2d 886 (2013), review denied, 465 Mass. 1108, 990 N.E.2d 562 (2013).

Extrajudicial comments

Judges must refrain from any extrajudicial comments that would allow an ordinary person to conclude that the judge cannot be impartial.

N.J.—*In re Advisory Letter No. 3-11*, 215 N.J. 495, 73 A.3d 1244 (2013).

Gathering facts outside record

It is impermissible for a trial judge to deliberately set about gathering facts outside the record of a bench trial over which he is to preside.

Minn.—*State v. Hicks*, 837 N.W.2d 51 (Minn. Ct. App. 2013), review granted, (Nov. 12, 2013).

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Conn.—*Wiegand v. Wiegand*, 129 Conn. App. 526, 21 A.3d 489 (2011).

Fla.—*In re Eriksson*, 36 So. 3d 580 (Fla. 2010).

N.J.—*In re Williams*, 169 N.J. 264, 777 A.2d 323 (2001).

Ohio—*Disciplinary Counsel v. Plough*, 126 Ohio St. 3d 167, 2010-Ohio-3298, 931 N.E.2d 575 (2010), reinstatement granted, 128 Ohio St. 3d 1203, 2011-Ohio-1082, 943 N.E.2d 568 (2011).

Tex.—*Sears v. Olivarez*, 28 S.W.3d 611 (Tex. App. Corpus Christi 2000).

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Fla.—*Domville v. State*, 103 So. 3d 184 (Fla. 4th DCA 2012), review denied, 110 So. 3d 441 (Fla. 2013).

Ky.—*Alfred v. Com.*, Judicial Conduct Com'n, 395 S.W.3d 417 (Ky. 2012), reh'g denied and opinion modified, (Oct. 25, 2012).

Minn.—*In re Conduct of Karasov*, 805 N.W.2d 255 (Minn. 2011).

N.J.—*In re Advisory Letter No. 3-11*, 215 N.J. 495, 73 A.3d 1244 (2013).

N.M.—*In re Salazar*, 2013-NMSC-007, 299 P.3d 409 (N.M. 2013).

Ohio—*Disciplinary Counsel v. Gaul*, 127 Ohio St. 3d 16, 2010-Ohio-4831, 936 N.E.2d 28 (2010).

Negligence or ignorance

Conduct prejudicial to the administration of justice that brings the judicial office into disrepute may include behavior brought about because of negligence or ignorance.

Miss.—*Mississippi Com'n On Judicial Performance v. Vess*, 10 So. 3d 486 (Miss. 2009).

Ticket fixing

Ticket-fixing by judges constitutes improper ex parte communication and severely undermines the public's confidence in a fair and impartial judicial system.

S.C.—*In re Woodham*, 386 S.C. 495, 689 S.E.2d 605 (2010).

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Fla.—*In re Cohen*, 99 So. 3d 926 (Fla. 2012).

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Fla.—*In re Henderson*, 22 So. 3d 58 (Fla. 2009).